

The Honorable Lauren King

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

DOMINIQUE C. PAVAGEAU,

Plaintiff,

v.

DELTA AIR LINES INC. IN-FLIGHT
SERVICE LEARNING,

Defendant.

Case No. 2:24-cv-00332-LK

**DEFENDANT’S ANSWER,
AFFIRMATIVE AND OTHER
DEFENSES TO PLAINTIFF’S
AMENDED COMPLAINT FOR
EMPLOYMENT DISCRIMINATION**

Defendant DELTA AIR LINES INC. IN-FLIGHT SERVICE LEARNING¹ (“Defendant”), by and through its counsel of record, hereby answers the Amended Complaint (“Amended Complaint”) filed by Plaintiff DOMINIQUE C. PAVAGEAU (“Plaintiff”), and responds to the correspondingly numbered paragraphs as follows:

I. THE PARTIES TO THIS COMPLAINT

A. Answering Paragraph A, Defendant is without sufficient knowledge to form a belief as to the truth or falsity of the allegations pertaining to Plaintiff’s residence and contact information, and therefore denies the same.

B. Answering Paragraph B, Defendant affirmatively asserts the proper entity name is Delta Air Lines, Inc. Defendant denies the existence of any entity identified as “Delta Air Lines In-

¹ Defendant affirmatively asserts that its proper entity name is “Delta Air Lines, Inc.”

1 Flight Service Learning,” and therefore denies all allegations relating to “Defendant No. 2,” as it is
 2 not a proper party to this action.

3 C. Answering Paragraph C, Defendant admits this is the location where Plaintiff
 4 attended Defendant’s In-Flight Learning training program. Except as expressly admitted, Defendant
 5 denies each and every allegation in Paragraph C of the Amended Complaint.

6 **II. BASIS FOR JURISDICTION**

7 Section II. contains a statement identifying Plaintiff’s cause of action, and thus, no response
 8 is required from Defendant. To the extent a response is required, Defendant does not dispute that a
 9 claim arising under the Americans with Disabilities Act of 1990, as codified, 41 U.S.C. §§ 12112 to
 10 12117, is a proper basis for federal court jurisdiction.

11 **III. STATEMENT OF CLAIM**

12 Defendant admits that Plaintiff completed the flight attendant training but was not permitted
 13 to graduate from the training due to performance issues, including but not limited to, several
 14 colleagues reporting bullying behavior by Plaintiff. Except as expressly admitted, Defendant denies
 15 each and every allegation contained in the opening paragraph of Section III.

16 A. Answering Paragraph A, Defendant denies each and every allegation contained
 17 therein.

18 B. Answering Paragraph B, Defendant denies each and every allegation contained
 19 therein.

20 C. Answering Paragraph C, Defendant denies each and every allegation contained
 21 therein.

22 D. Answering Paragraph D, Defendant denies each and every allegation contained
 23 therein.

24 E. Answering Paragraph E, Defendant admits Plaintiff advised certain Delta flight
 25 attendant training representatives that she intended to seek an accommodation relating to training.
 26 Except as expressly admitted, Defendant denies each and every remaining allegation contained in

Paragraph E and affirmatively asserts Plaintiff failed to complete the required paperwork for Delta to process her requested accommodation.

IV. EXHAUSTION OF FEDERAL ADMINISTRATIVE REMEDIES

A. Answering Paragraph A, Defendant is without sufficient knowledge to form a belief as to the truth or falsity of the allegations pertaining to the date Plaintiff filed her EEOC Charge, and therefore denies the same.

B. Answering Paragraph B, upon information and belief, Defendant admits that Plaintiff attached to her Amended Complaint a Notice of Right to Sue letter from the EEOC dated December 13, 2023. Except as expressly admitted, Defendant denies each and every allegation in Paragraph IV.B. of the Amended Complaint.

V. RELIEF

Defendant denies that Plaintiff is entitled to any of the relief requested in the paragraph entitled “V. Relief” or any of the relief and/or damages sought at all.

AFFIRMATIVE DEFENSES AND OTHER DEFENSES

Defendant asserts the following separately numbered defenses and affirmative defenses without assuming any burden of proof that it does not have as a matter of law:

1. Defendant specifically denies every allegation of Plaintiff’s Amended Complaint not specifically admitted herein.

2. Venue is improper in the U.S. District Court – Western District of Washington.

3. The Amended Complaint fails to state a claim upon which relief may be granted.

4. Plaintiff failed to properly serve Defendant and/or there is insufficiency of service of process.

5. Plaintiff failed to exhaust administrative remedies and/or failed to initiate this action within 90 days of receiving the EEOC’s Notice of Right to Sue letter.

6. Plaintiff’s alleged condition does not constitute a disability.

7. Defendant made a good faith effort to engage in the interactive process with Plaintiff

1 to provide reasonable accommodations.

2 8. Plaintiff failed to engage in the interactive process with Defendant related to any
3 request from Plaintiff for Defendant to reasonably accommodate an alleged disability.

4 9. Plaintiff's requests for accommodation were unreasonable and/or imposed an undue
5 hardship on Defendant.

6 10. Plaintiff was not qualified for the position and/or failed to perform the essential
7 functions of the position with or without a reasonable accommodation.

8 11. Defendant's actions with respect to Plaintiff's employment were for legitimate, non-
9 discriminatory, non-retaliatory reasons and were taken in exercise of Defendant's reasonable
10 business judgment.

11 12. Defendant would have taken the same actions regarding Plaintiff's employment in
12 the absence of Plaintiff engaging in any protected activity.

13 13. Defendant had in place (and has at all times relevant to this action) clear and well-
14 disseminated policies against discrimination, harassment, and retaliation, and a reasonable and
15 available procedure for handling complaints thereof, which provide for prompt and effective
16 responsive action. To the extent Plaintiff unreasonably failed to take advantage of the preventive or
17 corrective opportunities provided, or to avoid harm otherwise, Plaintiff's claims are barred.

18 14. Plaintiff's claims are barred to the extent that she has failed in whole or in part to
19 mitigate damages allegedly sustained as a result of conduct by Defendant.

20 15. Plaintiff's requested remedies are unavailable under the Americans with Disabilities
21 Act of 1990, as codified under 42 U.S.C. §§ 12112–17.

22 16. Plaintiff's claims against Defendant are barred by the applicable statutes of
23 limitations or timeliness provisions and/or the doctrine of laches.

24 17. Plaintiff's claims may be barred, in whole or in part, by the doctrine of after-acquired
25 evidence.

Defendant has not yet completed a thorough investigation and study or completed discovery of all facts and circumstances of the subject matter of the Amended Complaint and, accordingly, reserves the right to amend, modify, revise, or supplement its Answer, and to plead such further defenses and affirmative defenses and take such further actions as it may deem proper and necessary in its defense upon the completion of its investigation and study.

DEFENDANT'S PRAYER FOR RELIEF

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendant respectfully requests that this Court:

- a. Dismiss Plaintiff's Amended Complaint in its entirety;
- b. Deny each and every demand, claim, and prayer for relief contained in Plaintiff's Amended Complaint;
- c. Award Defendant reasonable attorneys' fees and costs incurred in defending this action; and
- d. Grant such other and further relief as the Court may deem just and proper.

Dated: November 8, 2024

s/Anne E. Reuben

Anne E. Reuben, WSBA #53299
areuben@littler.com

s/ Breanne F. Lynch

Breanne F. Lynch, WSBA #55242
blynch@littler.com

LITTLER MENDELSON, P.C.
One Union Square
600 University Street, Suite 3200
Seattle, WA 98101.3122
Telephone: 206.623.3300
Facsimile: 206.447.6965

Attorneys for Defendant

CERTIFICATE OF SERVICE

I am a resident of the State of Washington, over the age of eighteen years, and not a party to the within action. My business address is One Union Square, 600 University Street, Suite 3200, Seattle, WA 98101. I hereby certify that on November 8, 2024, I electronically filed the foregoing document(s) with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individual who has opted in for e-service:

Pro Se Plaintiff

4036 S Holly St.
Seattle, WA 98118
Tel: (206) 928-1233
Domthe10@icloud.com

I certify under penalty of perjury under the laws of the United States and of the State of Washington that the foregoing is true and correct.

Dated November 8, 2024.

s/ Karen Fiumano Yun

Karen Fiumano Yun
kfiumano@littler.com
LITTLER MENDELSON, P.C.

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